

**REMARKS**

Claims 16-36 were previously pending in the application. Claims 16-36 remain unchanged. Reconsideration in view of the following remarks is respectfully requested.

**Grounds of Rejection**

The claims stand rejected on formal grounds and under the cited prior art of record. Specifically, claims 16-32 were rejected under 35 U.S.C. §112, second paragraph. Additionally, claims 16-25, 27, 28, 31-33 and 35 were rejected under 35 U.S.C. §103(a) as being unpatentable over Park (U.S. Patent No. 5,477,915) in view of Locatelli (U.S. Patent No. 5,485,732). Claim 26 was rejected under 35 U.S.C. §103(a) as being unpatentable over Park in view of Locatelli and Cur et al. (U.S. Patent No. 5,377,498), claims 29 and 30 were rejected under 35 U.S.C. §103(a) as being unpatentable over Park in view of Locatelli and Maynard et al. (U.S. Patent No. 3,712,078), claims 33, 35 and 36 were rejected under 35 U.S.C. §103(a) as being unpatentable over Park in view of Locatelli and Herbst et al. (EP 0541324), and claim 34 was rejected under 35 U.S.C. §103(a) as being unpatentable over Park in view of Locatelli, Herbst and Cur.\*

**Independent Claims**

Independent claim 16 defines a refrigerating appliance including at least two storage compartments thermally insulated from each other and from a surrounding area, and an evaporator, which can be cooled independently from an evaporator of at least one other storage compartment, being provided with each storage compartment. The

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\* Applicants assume that the Examiner intended to refer to Herbst rather than Holtz.

evaporator from one of the compartments comprises two evaporators connected in series. The appliance includes means for switching the mode of operation of at least one of the compartments between a freezing mode and a non-freezing mode.

Independent claim 33 defines a refrigerating appliance including at least two storage compartments thermally insulated from each other and from a surrounding area, and an evaporator that can be cooled independently from an evaporator of at least one other storage compartment. An evaporator is provided with each storage compartment, where the evaporators of each of the storage compartments are connected in parallel to effect the independent cooling. One of the evaporators from one of the compartments comprises two evaporators connected in series. Each of the storage compartments is operable in a plurality of operating modes of different temperatures. A mode switch is cooperable with the evaporator and acts to switch the mode of operation of the compartments between the operating modes.

Rejection Under 35 U.S.C. §112

With regard to the rejection under 35 U.S.C. §112, second paragraph, Applicants maintain that the specification clearly sets forth the structure that performs the function of switching the mode of operation of at least one of the compartments between a freezing mode and a non-freezing mode. For example, the specification describes two wire tube evaporators 9 connected in series that are used to cool the lower compartment 3 (see paragraph [021]). A solenoid valve 12 is subject to the control of a temperature control circuit, which establishes a refrigeration requirement of compartments 2, 3 on the basis of air temperatures measured in each of the compartments. The control switches the

compressor on and off according to this requirement and guides the refrigerant flow by the solenoid valve 12 via a throttle 13 to the one of compartments 2, 3 in which a refrigeration requirement has been established (see paragraph [023]). The regulators 14, 15 enable a user to set a theoretical temperature for the respective compartments 2, 3. The setting range for compartment 3 is described as  $-18^{\circ}\text{C}$  to  $+12^{\circ}\text{C}$ , which spans a range over which compartment 3 could be operated as a refrigerating compartment or a freezing compartment (see paragraph [024]). As such, the structure for switching the operation between a freezing mode and a non-freezing mode includes the structure noted above that enables the user to set the compartment at a temperature that is typically considered suitable for a freezing compartment and the structure that operates to meet the requested freezing temperature requirement.

Withdrawal of the rejection is requested.

Prior Art Rejections

The invention relates to a refrigerating appliance that enables a user to select specific temperature requirements for at least one of the refrigerator compartments. In an exemplary embodiment, a refrigerating appliance includes two compartments, one of which is operated in a refrigerating mode, and the other of which is selectively operable in a refrigerating or freezing mode. The freezing compartment contains two wire tube evaporators that are connected in series. The user can set the temperature according to a desired operating requirement.

Park describes a refrigerator with multiple compartments and a cooling system. Park describes that one compartment may function as either a freezing compartment or a

refrigerating compartment by controlling a three-way valve. That is, Park utilizes coolant flow to change the compartment function. Park describes a first refrigerant flow controller 35 that is embodied by an electromagnetically operated three-way valve 35A. When the three-way valve is opened, the refrigerant that passes through a first section 52 of a first evaporator 50 flows into a second section 54 of the first evaporator 50, “thereby relatively increasing the refrigerating rate per unit time.” As a consequence, the first compartment functions as a freezing compartment.

In the Office Action, the Examiner recognizes that Park lacks at least an evaporator from one of the compartments comprising two evaporators connected in series. In this context, the Office Action refers to Locatelli and contends that it would have been obvious to modify Park to include evaporators connected in series in view of the rack type evaporators described in Locatelli. Applicants respectfully disagree.

As noted above, Park describes structure that is selectively operable to enable at least one of its compartments to be operated as a freezing compartment by controlling refrigerant flow. Applicants submit that those of ordinary skill in the art would not look to Locatelli to perform a function that is already performed by existing structure in Park. In fact, the only reason to make such a modification is to meet Applicants’ claims. Applicants submit that such a conclusion amounts to improper hindsight.

Moreover, although Locatelli references that the rack type evaporators achieve a higher efficiency of the refrigeration circuit, Locatelli does not describe that the use of a second rack, for example, would serve a purpose of changing a refrigerated compartment to a freezer compartment. Applicants submit that the modification proposed in the Office

Action would in fact serve to defeat the purpose of the Park structure. Such a modification is improper, and for this reason also, withdrawal of the rejection is requested.

Although independent claim 33 is listed in these grounds of rejection, **claim 33 is still not addressed in the discussion.**

With regard to dependent claims 17-25, 27, 28, 31 and 32, Applicants submit that these claims are allowable at least by virtue of their dependency on an allowable independent claim and also because they recite additional patentable subject matter.

Although claim 35 is listed in these grounds of rejection, **claim 35 is still not addressed in the discussion.**

With regard to the respective rejections of claim 26, claims 29 and 30, and claim 34, Applicants submit that the additional secondary references do not correct the deficiencies noted above with regard to Park and Locatelli and independent claim 16, and as such, Applicants submit that these dependent claims are allowable at least by virtue of their dependency on an allowable independent claim and also because they recite additional patentable subject matter. Withdrawal of the rejections is requested.

With regard to claims 33, 35 and 36, independent claim 33 recites that one of the evaporators from one of the compartments comprises two evaporators connected in series. With reference to the discussion above, as recognized in the Office Action, Park lacks at least this subject matter. Neither Locatelli nor Herbst provides any suggestion to modify Park as proposed in the Office Action. If fact, as modified, Park would no longer

function as intended as also discussed above. Applicants thus submit that the rejection of claim 33 should be withdrawn.

With regard to dependent claims 35 and 36, Applicants submit that these claims are allowable at least by virtue of their dependency on an allowable independent claim and also because they recite additional patentable subject matter.

Withdrawal of the rejection is requested.

**CONCLUSION**

In view of the above, allowance of Claims 16-36 is respectfully requested. If the Examiner has any questions regarding this response, the Examiner is requested to contact the undersigned. If an extension of time for this paper is required, petition for extension is herewith made.

Respectfully submitted,

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